



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2013-1060]

1625-AA00

Safety Zones; Eighth Coast Guard District Annual and Recurring
Safety Zones Update

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending and updating its current list of recurring safety zone regulations that take place in the Eighth Coast Guard District area of responsibility (AOR). This final rule informs the public of regularly scheduled events that require additional safety measures through establishing a safety zone. Through this final rule, the list of recurring safety zones is updated with revisions, additional events, and removal of events that no longer take place in the Eighth Coast Guard District AOR. When these safety zones are enforced, vessel traffic is restricted from specified areas. Additionally, this one rulemaking project reduces administrative costs involved in

producing a separate rule for each individual recurring safety zone and serves to provide notice of the known recurring safety zones throughout the year.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of Docket Number [USCG-2013-1060]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on "Open Docket Folder" on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Shelley R. Miller, Eighth Coast Guard District Waterways Management Division, (504) 671-2139 or e-mail, Shelley.R.Miller@uscg.mil. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

BNM Broadcast Notice to Mariners

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
LNM Local Notice to Mariners
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard preceded this final rule with an interim final rule with request for comments. The interim rule was published in the Federal Register on April 22, 2014, [79 FR 22398]. The interim rule established separate tables for each of the Sectors operating within the Coast Guard's Eighth District and updated the list of recurring safety zones under 33 CFR 165. Although no adverse comments were received, some comments to further update the recurring list were received. Because the interim rule and now this final rule establish separate tables for each Sector within the Eighth District, further updates will now be made by each Sector individually, impacting only their table of recurring safety zones.

The list of annual and recurring safety zones occurring in the Eighth Coast Guard District AOR is published under 33 CFR 165.801. That list was originally created May 16, 2012 through a previous rulemaking, [77 FR 2876] and received no adverse comments.

B. Basis and Purpose

The legal basis for the rule is 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; and Department of Homeland

Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones. The Coast Guard is amending and updating the safety zone regulations under 33 CFR part 165 to include the most up to date list of recurring safety zones for events held on or around navigable waters within the Eighth Coast Guard District. These events include air shows, fireworks displays, and other marine related events requiring a limited access area restricting vessel traffic for safety purposes. The list under 33 CFR 165.801 requires amending to provide new information on existing safety zones, and updating to include new safety zones expected to recur annually or biannually and to remove safety zones that are no longer required. Issuing individual regulations for each new safety zone, amendment, or removal of an existing safety zone creates unnecessary administrative costs and burdens. This single rulemaking considerably reduces administrative overhead and provides the public with notice through publication in the Federal Register of the upcoming recurring safety zone regulations.

C. Discussion of Comments, Changes and the Final Rule

No adverse comments were received. Some comments regarding further updates to the recurring list were received. Because the interim rule and now this final rule establish separate tables for each Sector within the Eighth District, further updates will

now be made by each sector individually, impacting only their table of recurring safety zones.

No changes to the rule have been made from the interim rule and request for comments.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

This rule establishes safety zones limiting access to certain areas under 33 CFR 165 within the Eighth Coast Guard District. The effect of this rulemaking will not be significant because these safety zones are limited in scope and duration. Additionally, the public is given advance notification through local forms of notice, the Federal Register, and/or Notices of

Enforcement and thus will be able to plan operations around the safety zones in advance. Deviation from the safety zones established through this rulemaking may be requested from the appropriate COTP and requests will be considered on a case-by-case basis.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit the safety zone areas during periods of enforcement. The safety zones will not have a significant economic impact on a substantial number of small entities because they are limited in scope and will be in effect for short periods of time. Before the enforcement period, the Coast Guard COTP will issue maritime advisories widely available to waterway users.

Deviation from the safety zones established through this rulemaking may be requested from the appropriate COTP and requests will be considered on a case-by-case basis.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any

one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of

power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review under section 2.B.2 figure 2-1, paragraph 34(g) of the Commandant Instruction because it involves the establishment of safety zones. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under the ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and

recordkeeping requirements, Security measures, Waterways.

Accordingly, the interim rule amending 33 CFR part 165 that published at 79 FR 22398 on April 22, 2014, is adopted as a final rule without change.

Dated: July 27, 2015.

D. R. CALLAHAN,
Rear Admiral, U.S. Coast Guard,
Commander, Eighth Coast Guard District

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8/18/2015]